

Robert L. Powley (RP 7674)
James M. Gibson (JG 9234)
David J. Lorenz (DL 3072)
Powley & Gibson, P.C.
304 Hudson Street, 2nd Floor
New York, New York 10013
Telephone: (212) 226-5054
Facsimile: (212) 226-5085

Attorneys for Defendants
Forever 21, Inc., Forever 21 Retail,
Inc., Forever 21 Logistics, LLC,
Do Won Chang and Jin Sook Chang

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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ANNA SUI CORP.,	:	
	:	
	:	07 Civ. 3235 (TPG)(JCF)
	:	
Plaintiff,	:	
	:	
-v-	:	
	:	
FOREVER 21, INC., FOREVER 21 RETAIL,	:	
INC., FOREVER 21 LOGISTICS, LLC,	:	
DO WON CHANG, JIN SOOK CHANG,	:	
GADZOOKS, INC., GERALD P. SZCZEPANSKI	:	
and JOHN DOES 1 to 20,	:	
	:	
	:	
Defendants.	:	
-----X	:	

**DECLARATION OF ROBERT L. POWLEY IN SUPPORT
OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S RENEWED
MOTION FOR EXPEDITED DISCOVERY AND OTHER RELIEF AND
DEFENDANTS' CROSS-MOTION TO COMPEL DISCOVERY FROM PLAINTIFF**

ROBERT L. POWLEY declares the following to be true under the penalties of perjury:

1. I am a member in good standing of the bar of the State of New York, and am a partner at the law firm of Powley & Gibson, P.C., the attorneys of record for Defendants Forever 21, Inc., Forever 21 Retail, Inc., Forever 21 Logistics, LLC, Do Won Chang and Jin Sook Chang (hereinafter collectively “Defendants”).

2. I make this declaration in support of Defendants’ Memorandum of Law in Support of Defendants’ Opposition in Part to Plaintiff’s Renewed Motion for Expedited Discovery and Other Relief and Defendants’ Cross-Motion to Compel Discovery of Plaintiff.

3. At my direction, research has been conducted and is ongoing to determine the originality and authorship of the copyrighted works asserted to be the basis of Plaintiff’s infringement claims in the First Amended Complaint (“Sui Designs”).

4. To date, we have been able to obtain at least two vintage fabric designs which appear to be precursors to two of the Sui Designs.

5. Specifically, attached as Exhibit A are pictures of a vintage swatch that is virtually identical to Plaintiff’s “Butterfly Border Stripe” design shown in Exhibit 6 of the First Amended Complaint, which Plaintiff has represented to this Court is an original design created solely by Anna Sui Corp. The fabric swatch shown in Exhibit A was purchased from Design Source International, Inc. at a New York area tradeshow on April 15, 2008. It is my understanding that the vintage fabric design shown in Exhibit A is a design originally created in the 1930’s.

6. A copy of Plaintiff’s registration and deposit material of record for the Sui Design entitled “Butterfly Border Stripe” is annexed hereto as Exhibit B. This registration and deposit material was originally supplied by Plaintiff in Exhibit 6 of the First Amended Complaint, and is attached hereto for reference.

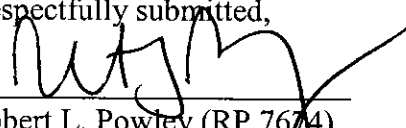
7. Annexed as Exhibit C is a picture of a vintage fabric swatch that is virtually identical to Plaintiff's "Circles and Block Stripe Border" design shown in Exhibit 16 of the First Amended Complaint, which Plaintiff has represented to this Court is an original design created solely by Anna Sui Corp. The fabric swatch shown in Exhibit C was purchased from Edna Moran Textile Merchant, LLC, at a New York area trade show on April 15, 2008. It is my understanding that the vintage fabric design shown in Exhibit C is a design originally created in the 1930's.

8. A copy of Plaintiff's registration and deposit material of record for the Sui Design entitled "Circles and Block Stripe Border" is annexed hereto as Exhibit D. This registration and deposit material was originally supplied by Plaintiff in Exhibit 16 of the First Amended Complaint, and is attached hereto for reference.

9. On October 9, 2007, Defendants requested that Plaintiff exchange "[a]ll documents and things related to the creation and authorship of the Sui Designs" by serving Defendants' First Request to Plaintiff for Production of Documents and Things ("First Request"). Having received virtually no responsive production from Plaintiff regarding creation and authorship of the Sui Designs, Defendants wrote to Plaintiff on December 21, 2007 again requesting that Plaintiff produce information responsive to the October 9, 2007 First Request. On December 31, 2007, Defendants again wrote to Plaintiff reminding them of Defendants' request for discovery on creation and authorship. Defendants again wrote to Plaintiff on April 2,

2008 seeking compliance with Defendants' prior discovery requests. To date, virtually no responsive documents have been produced.

Dated: April 22, 2008

Respectfully submitted,

By: _____
Robert L. Powley (RP 7674)
James M. Gibson (JG 9234)
David J. Lorenz (DL 3072)

Attorneys for Defendants
Forever 21, Inc., Forever 21 Retail
Inc., Forever 21 Logistics, LLC,

Do Won Chang and Jin Sook Chang

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New York, New York 10013
Phone: 212-226-5054
Fax: 212-226-5085

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of DECLARATION OF ROBERT L. POWLEY IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S RENEWED MOTION FOR EXPEDITED DISCOVERY AND OTHER RELIEF AND DEFENDANTS' CROSS-MOTION TO COMPEL DISCOVERY FROM PLAINTIFF was served upon counsel for Plaintiff by ECF and First-Class Mail, postage prepaid, on this 22nd day of April 2008, addressed as follows:

Marya Lenn Yee, Esq.
Amy C. Opp, Esq.
DONOVAN & YEE LLP
The Soho Building
110 Greene Street, Suite 700
New York, New York 10012
(212) 226-7700

Bruni Casiano